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NOTICE OF ALLOWANCE AND FEE(S) DUE

63710 7590 01/21/2011
INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

EXAMINER

JOHNSON, GREGORY L.

ART UNIT

PAPER NUMBER

3691

DATE MAILED: 01/21/2011

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,779	04/16/2004	Michael Sweeting	03-1083	1294

TITLE OF INVENTION: SYSTEMS AND METHODS FOR PROVIDING DYNAMIC PRICE IMPROVEMENT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	04/21/2011

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

63710 7590 01/21/2011

INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	04/21/2011

EXAMINER	ART UNIT	CLASS-SUBCLASS
JOHNSON, GREGORY L	3691	705-037000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____
Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 661 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 661 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

10/826,779

Examiner

GREGORY JOHNSON

Applicant(s)

SWEETING ET AL.

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Notice of Appeal filed November 26, 2010.
2. ☒ The allowed claim(s) is/are 1,3-10,12-18,20-26,28-33,39 and 40.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Alexander Kalinowski/
Supervisory Patent Examiner, Art Unit 3691

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David Boundy (December 2010).

2. The application has been amended as follows:

1. (currently amended) A method for operating an electronic trading system for the exchange of financial instruments, the method comprising the steps of:

in an electronic trading system designed to receive and store orders to buy and to sell financial instruments as submitted by traders, and substantially as orders are received, to execute trades between matching buy and sell orders, stored buy and sell orders having order matching priority orderings relative to each other reflecting at least one attribute of the order in addition to or instead of price, the order matching priority ordering used by the electronic trading system to determine priority among orders for matching for execution[[:]]:

receiving a dynamic price improvement order, being an order to buy or sell an identified financial instrument traded on the electronic trading system, whose order matching priority for execution ~~against contraorders~~ contra orders is maintained by the

electronic trading system at least in part relative to earlier-submitted orders on the same side of the market by adjusting a price associated with the dynamic price improvement order;

receiving orders contra to the dynamic price improvement order, and matching the contra orders to the stored orders on the same side of the market as the dynamic price improvement order substantially as the contra orders are received, the dynamic price improvement order being matched to the contra orders with the order matching priority relative to other orders as maintained by the electronic trading system, and executing transactions substantially as orders and contra orders are matched.

2. (cancelled)

3. (currently amended) The method of claim 1, in which the ~~change~~ adjusting of price includes an increase in the price of the dynamic price improvement order.

4. (currently amended) The method of claim 1, in which the ~~change~~ adjusting of price includes a decrease in the price of the dynamic price improvement order.

5. (previously presented) The method of claim 1, in which the order matching priority of the dynamic price improvement order is a position at a front of a trading stack.

6. (previously presented) The method of claim 1, further comprising the step of:

maintaining order matching priority of the dynamic price improvement order relative to other orders based on a timestamp assigned to the dynamic price improvement order.

7. (previously presented) The method of claim 6, further comprising maintaining the order matching priority based on said timestamp.

8. (currently amended) The method of claim 6, wherein, ~~when in the event~~ two or more said dynamic price improvement orders are received, the orders with older timestamps are matched prior to orders with newer timestamps.

9. (previously presented) The method of claim 1, wherein:
the electronic trading system reveals orders to users at a fixed price increment, and the price increment at which the price of the dynamic price improvement order is adjusted is a fraction of the revealed price increment.

10. (previously presented) The method of claim 1, wherein:
determining includes determining the price improvement level such that it is one level higher than the next best order in an order stack, wherein the price improvement level can be adjusted up to a maximum price improvement level.

11. (cancelled)

12. (previously presented) The method of claim 1, further comprising the step of:
determining the price improvement level of a best order in an order stack; and
assigning a price improvement level to said dynamic price improvement order that
improves the price of said dynamic price improvement order by one price improvement
level when the price improvement level of said best order is not a maximum price
improvement level.

13. (previously presented) The method according to claim 12, further comprising
the step of:

assigning said maximum price improvement level to said dynamic price
improvement order when the price improvement level of said best order is at said
maximum price improvement level.

14. (previously presented) The method of claim 1, wherein said dynamic price
improvement order is the default order type for designated traders that use a trading
interface to submit orders to the electronic trading system.

15. (previously presented) The method of claim 1, further comprising the step of:
providing to traders of the electronic trading system the option to select dynamic
price improvement as one of several price improvement order types available for
submission to said electronic trading system.

16. (previously presented) The method of claim 1 further comprising:

decreasing the price improvement level of at least one order on the same side of the market as the dynamic price improvement order such that the price improvement level of the at least one same-market-side order does not exceed the price improvement level assigned to the dynamic price improvement order.

17. (previously presented) The method of claim 16, wherein:

the price improvement level of the at least one second order is decreased to a price improvement level one level below a maximum price improvement level when the at least one price improved order is assigned a maximum price improvement level as its price improvement level.

18. (currently amended) A electronic trading system for the exchange of financial instruments, said system comprising at least one processor, the processor or processors of the system being configured to:

receive and store orders to buy and to sell financial instruments as submitted by traders, and substantially as orders are received, to execute trades between matching buy and sell orders, ~~the~~ stored buy and sell orders having order matching priority orderings relative to each other reflecting at least one attribute of the order in addition to or instead of price, the order matching priority used by the electronic trading system to determine order matching priority among orders for matching for execution;

receive a dynamic price improvement order, being an order to buy or sell an identified financial instrument traded on the electronic trading system, whose order matching priority for execution against ~~contra orders~~ contra orders is maintained by the electronic trading system at least in part relative to earlier-submitted orders on the same side of the market by adjusting a price associated with the dynamic price improvement order;

receive orders contra to the dynamic price improvement order, and match the contra order to the stored orders on the same side of the market as the dynamic price improvement order substantially as the contra orders are received, the dynamic price improvement order being matched to the contra orders with the order matching priority relative to other orders as maintained by the electronic trading system, and execute transactions substantially as orders and contra orders are matched.

19. (cancelled)

20. (currently amended) The system of claim 18, in which the ~~change~~ adjusting of price includes an increase in the price of the dynamic price improvement order.

21. (currently amended) The system of claim 18, in which the ~~change~~ adjusting of price includes a decrease in the price of the dynamic price improvement order.

22. (currently amended) The system of claim 18, in which the order matching priority of the dynamic price improvement order is a position at a front of a trading stack.

23. (previously presented) The system of claim 18, wherein said processor is operative to maintain order matching priority of the dynamic price improvement order relative to other orders based on a timestamp assigned to the dynamic price improvement order.

24. (previously presented) The system of claim 23, wherein said processor is operative to maintain the order matching priority based on said timestamp.

25. (previously presented) The system of claim 18, wherein:
the electronic trading system reveals orders to users at a fixed price increment, and the price increment at which the price of the dynamic price improvement order is adjusted is a fraction of the revealed price increment.

26. (previously presented) The system of claim 18, wherein:
the processor is further operable to adjust the price of the dynamic price improvement order to one level more improved than the next best order in an order stack, wherein the price improvement level can be adjusted up to a maximum price improvement level.

27. (cancelled)

28. (previously presented) The system of claim 18, wherein:

the processor is further operable to determine the price improvement level of a best order in an order stack; and assign a price improvement level to said dynamic price improvement order that improves the price of said dynamic price improvement order by one price improvement level when the price improvement level of said best order is not a maximum price improvement level.

29. (previously presented) The system of claim 28, wherein said processor is operative to assign said maximum price improvement level to said dynamic price improvement order when the price improvement level of said best order is at said maximum price improvement level.

30. (previously presented) The system of claim 18, wherein said dynamic price improvement order is the default order type for designated traders that use a trading interface to submit orders to the electronic trading system.

31. (previously presented) The system of claim 18, wherein:

said processor is operative to decrease the price improvement level of at least one order on the same side of the market as the dynamic price improvement order such

that the price improvement level of the at least one same-market-side order does not exceed the price improvement level assigned to the dynamic price improvement order.

32. (previously presented) The system of claim 31, wherein the price improvement level of the at least one second order is decreased to a price improvement level one level below a maximum price improvement level when the at least one price improved order is assigned a maximum price improvement level as its price improvement level.

33. (previously presented) The system of claim 18, wherein:
the electronic trading system is operable to providing to traders of the electronic trading system the option to select dynamic price improvement as one of several price improvement order types available for submission to said electronic trading system.

34-38. cancelled.

39. (previously presented) The method of claim 1, in which a contra order matched to the dynamic price improvement order for execution is a lift or take of a standing offer.

40. (previously presented) The method of claim 1, in which a contra order matched to the dynamic price improvement order for execution is a hit of a standing bid.

Allowable Subject Matter

3. Claims 1, 3-10, 12-18, 20-26, 28-33, 39 and 40 are allowed.
4. The following is an examiner's statement of reasons for allowance:

The prior art most closely resembling Applicant's claimed invention are as follows: Peterffy et. al., Pub. No. 2004/0254804, (hereinafter Peterffy) and Konia, Pat. No. 7,225,151.

Peterffy discloses a price improvement processor to effectuate more rapid matching of bids and offers of financial instruments by conducting a rapid automated auction in which certain market participants may provide price improvement in increments that are finer than the prevailing standard minimum price variation and are provided a certain allocation as an incentive for such price improvements.

And Konia discloses a system and method for automatically managing an auction for determining relative priority for vendors for selling to several buyers based on the relative value of related bid is further disclosed. The system comprises a processor electrically connected to a network for checking for whether a first bid is lower than a second bid in an auction for determining priority on a server electrically connected to the network for ranking selling priority for a first and second vendor, wherein the relative priority for selling by the first vendor is dependent on whether the value of the first bid is lower than the value of the second bid, and wherein the relative priority for selling by the

second vendor is dependent on whether the value of the second bid is lower than the value of the first bid. The processor is further configured for decrementing the first bid to a value lower than the second bid if the first bid is not lower than the second bid, thereby causing the relative priority for the first vendor to exceed the priority for the second bidder.

However, neither Peterffy nor Konia, separately or in combination disclose or teach the following:

receiving a dynamic price improvement order, being an order to buy or sell an identified financial instrument traded on the electronic trading system, whose order matching priority for execution against ~~contra orders~~ contra orders is maintained by the electronic trading system at least in part relative to earlier-submitted orders on the same side of the market by adjusting a price associated with the dynamic price improvement order;

receiving orders contra to the dynamic price improvement order, and matching the contra orders to the stored orders on the same side of the market as the dynamic price improvement order substantially as the contra orders are received, the dynamic price improvement order being matched to the contra orders with the order matching priority relative to other orders as maintained by the electronic trading system

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY JOHNSON whose telephone number is (571)272-2025. The examiner can normally be reached on Monday - Friday, 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ALEXANDER KALINOWSKI can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Kalinowski/
Supervisory Patent Examiner, Art Unit 3691

GREGORY JOHNSON
Examiner, Art Unit 3691
